

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

WILLARD J. KING,)
Plaintiff,)
v.)
SEQUATCHIE COUNTY GOVERNMENT,)) Case No. 1:21-cv-00055-DCLC-SKL
MARION COUNTY GOVERNMENT,) Judge Corker/Mag. Judge Lee
HAMILTON COUNTY GOVERNMENT,)
BRIAN DAVIS, JUSTIN GRAHAM,)
PAIGE DURHAM, RONNIE "BO")
BURNETT, & MATT BLANSETT)
In their official capacities as agents for)
the Marion County Sheriff's Office)
and in their individual capacity,)
ANDEW VOSS in his official capacity as)
agent for the Hamilton County Sheriff's)
Office and in his individual capacity,)
JODY LOCKHART & JACOB KILGORE)
in their official capacities as agent for)
the Sequatchie County Sheriff's Office)
and in his their individual capacity,)
Defendants.)

PLAINTIFF'S SECOND AMENDED COMPLAINT

Comes now the Plaintiff, Willard J. King, by and through counsel, pursuant to the Rules of Civil Procedure, and hereby states for his Second Amended cause of action against the above-named Defendants as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Willard J. King is a citizen and resident of Sequatchie County, Tennessee.

2. Defendant, Sequatchie County, Tennessee is a municipality chartered by the State of Tennessee and as such is a political subdivision under the laws of the State of Tennessee. Defendant Sequatchie County, Tennessee operates and maintains a law enforcement agency known as the Sequatchie County Sheriff Department. Sequatchie County, Tennessee may be served through its "chief executive officer" and/or its Mayor Keith Cartwright, who can be served at P.O. Box 546 Dunlap, TN 37327-0546.

3. Defendant, Marion County, Tennessee is a municipality chartered by the State of Tennessee and as such is a political subdivision under the laws of the State of Tennessee. Defendant Marion County, Tennessee operates and maintains a law enforcement agency known as the Marion County Sheriff Department. Marion County, Tennessee may be served through its "chief executive officer" and/or its Mayor David Jackson, who can be served at 1 Courthouse Square, Suite 105, Jasper, TN 37347.

4. Defendant, Hamilton County, Tennessee is a municipality chartered by the State of Tennessee and as such is a political subdivision under the laws of the

State of Tennessee. Defendant Hamilton County, Tennessee operates and maintains a law enforcement agency known as the Hamilton County Sheriff Department. Hamilton County, Tennessee may be served through its “chief executive officer” and/or its Mayor Jim Coppinger, who can be served at 201 E 7th St UNIT 208, Chattanooga, TN 37402.

5. Defendants BRIAN DAVIS, JUSTIN GRAHAM, PAIGE DURHAM, MATT BLANSETT, AND RONNIE “BO” BURNETT (hereinafter referred to in this Complaint collectively as the “Marion County SWAT Team”) are adult residents and to the Plaintiff’s best knowledge citizen of Marion County, Tennessee and were members of the Marion County Sheriff’s Department at all times material hereto. At all pertinent times, these Defendants were acting by virtue of their positions as law enforcement officials of the Marion County Sheriff’s Department, Jasper Police Department, and under the color of state law. These Defendants are being sued individually and as their official capacity as members of the Marion County Sheriff’s Department and Jasper Police Department. The Marion County Sheriff’s Department Team can be served with process at 5 Oak Ave, Jasper, TN 37347. At all times mentioned in this complaint, Defendant Marion County Sheriff’s Department and Brian Davis of the Jasper Police Department at the time of the arrestacted under the color of state law because they were acting in the performance of their official duties but acted outside of their lawful authority.

6. Defendant Andrew Voss is an adult resident and to the Plaintiff’s best knowledge a citizen of Hamilton County, Tennessee and was a member of the

Hamilton County Sheriff Department at all times material hereto. At all pertinent times, this Defendant was acting by virtue of his position as a law enforcement official of the Hamilton County Sheriff's Department and under the color of state law. This Defendant is being sued individually and as his official capacity as a member of the Hamilton County Sheriff's Department. Defendant Andrew Voss can be served with process at 600 Market Street, Chattanooga, TN 37402. At all times mentioned in this complaint, Defendant Andrew Voss acted under the color of state law because he was acting in the performance of his official duties but acted outside of his lawful authority.

7. Defendants Jody Lockhart is an adult resident and to the Plaintiff's best knowledge a citizen of Sequatchie County, Tennessee and was a member of the Sequatchie County Sheriff's Department at all times material hereto. At all pertinent times, this Defendant was acting by virtue of his position as a law enforcement official of the Sequatchie County Sheriff's Department and under the color of state law. This Defendant is being sued individually and as his official capacity as a member of the Sequatchie County Sheriff's Department. Defendant Jody Lockhart can be served with process at 351 Fredonia Road, Dunlap, TN 37327. At all times mentioned in this complaint, Defendant Jody Lockhart acted under the color of state law because he was acting in the performance of his official duties but acted outside of his lawful authority.

8. Defendant Jacob Kilgore is an adult resident and to the Plaintiff's best knowledge a citizen of Sequatchie County, Tennessee and was a member of the

Sequatchie County Sheriff's Department at all times material hereto. At all pertinent times, this Defendant was acting by virtue of his position as a law enforcement official of the Sequatchie County Sheriff's Department and under the color of state law. This Defendant is being sued individually and as his official capacity as a member of the Sequatchie County Sheriff's Department. Defendant Jody Lockhart can be served with process at 351 Fredonia Road, Dunlap, TN 37327. At all times mentioned in this complaint, Defendant Jody Lockhart acted under the color of state law because he was acting in the performance of his official duties but acted outside of his lawful authority.

9. The attack took place in Sequatchie County, Tennessee.

FACTUAL ALLEGATIONS

Plaintiff hereby incorporates, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

10. This action arises out of an attack occurring on October 3, 2019 at at the residence of the Plaintiff Willard J. King who was wrongfully battered, unlawfully seized and detained against his will, by the Defendants when the Defendants were executing a broadly granted search warrant that did not define any area or residence to be searched. This illegal battery, seizure, and detainment of the Plaintiff caused the Plaintiff to sustain severe, permanent injury and emotional distress.

11. Specifically, the Defendants Brian Davis, Justin Graham, and Andrew Voss did negligently, while acting within the scope of their employment, batter the Plaintiff Willard J. King at the Plaintiffs' residence even though the Plaintiff was on his property. Notwithstanding, Defendants Brian Davis, Justin Graham, and Andrew Voss were then and there guilty of one or more of the following wrongful acts and/or omissions to act:

- a. Recklessly using excessive force in order to cause the Plaintiff Willard J. King injury, including the use of a taser.
- b. Unlawfully seizing and detaining Plaintiff Willard J. King.

12. Specifically, the Defendants Brian Davis, Justin Graham, and Andrew Voss did intentionally, while acting within the scope of their employment, batter the Plaintiff Willard J. King at the Plaintiff's residence even though the Plaintiff was not acting with harm toward anyone else at the time of the incident.

13. Notwithstanding, Defendants Defendants Brian Davis, Justin Graham, and Andrew Voss were guilty of one or more of the following wrongful acts and/or omissions to act:

- a. Recklessly using excessive force in order to cause the Plaintiff injury, including dragging his bloodied body by his feet outside of the residence.
- b. Unlawfully seizing and detaining Plaintiff Willard J. King.

14. The Defendants Brian Davis, Justin Graham, and Andrew Voss, acting within the scope and course of their employment, willfully and wantonly or with

gross negligence slammed the Plaintiff Willard King onto the ground, although Defendants knew, or should have known, that such conduct posed an unreasonable risk that would likely cause serious injury to Plaintiff;

15. The Defendants Defendants Brian Davis, Justin Graham, and Andrew Voss, acting within the scope and course of their employment, willfully and wantonly or with gross negligence or recklessly used excessive force in order to cause Plaintiff injury although Defendants knew, or should have known, that such conduct posed an unreasonable risk that would likely cause serious injury to Plaintiff;

16. The Defendants recklessly using excessive force in order to cause the Plaintiff injury.

a. Unlawfully seizing and detaining Plaintiff Willard King.

17. The Defendants Brian Davis, Justin Graham, and Andrew Voss, acting within the scope and course of their employment, willfully and wantonly or with gross negligence illegally seized and detained the Plaintiff Willard King against his will, although the Defendants knew, or should have known, that such conduct posed an unreasonable risk that would likely cause serious injury to Plaintiff.

18. Defendants Paige Durham, Matt Blansett, Jody Lockhart, Jacob Kilgore, and Ronnie “Bo” Burnett were present at all times alleged in the Complaint and failed to intervene when they should have done so.

COUNT I-AGGRAVATED ASSAULT AND BATTERY BY OFFICERS BRIAN DAVIS, JUSTIN GRAHAM, AND ANDREW VOSS

Plaintiff hereby incorporates, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

19. Defendants Brian Davis, Justin Graham, and Andrew Voss use of excessive force, under these circumstances constituted aggravated assault and battery on Plaintiff Willard King and was willful, malicious and beyond the scope of their authorized use of force so as to warrant the imposition of punitive damages against them.

20. As a result of this assault and battery, Plaintiff Willard King suffered horrific injuries, which are permanent in nature, and which are the the direct and legal cause of Plaintiff Willard King's actual physical and emotional injuries, and other damages and losses described herein entitling Plaintiffs to compensatory and special damages.

**COUNT II-FALSE ARREST
DEFENDANTS JUSTIN GRAHAM AND ANDREW VOSS**

Plaintiffs hereby incorporate, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

21. Defendants Justin Graham and Andrew Voss handcuffed the Plaintiff Willard King and Plaintiff Willard King was seized for the purposes of the Fourth Amendment and was therefore under arrest.

22. At the time Plaintiff Willard King was placed under “arrest,” Defendants Justin Graham and Andrew Voss had no legal authority to make the “arrest.”

23. During this false arrest, Plaintiff Willard King suffered grievous bodily injury at the hands of the Defendants Justin Graham and Andrew Voss when the Defendants employed the use of excessive force to “seize” the Plaintiff Willard King against his will, and without the lawful authority to do so.

24. Defendants Justin Graham and Andrew Voss’ use of excessive force, during this false arrest, was willful, malicious and beyond the scope of his authorized use of excessive force so as to warrant the imposition of punitive damages against him.

25. As a result of this false arrest, Plaintiff Willard King suffered horrific injuries, which are permanent in nature, and which are the direct and legal cause of Plaintiff Willard King’s actual physical and emotional injuries, and other damages and losses described herein entitling Plaintiffs to compensatory and special damages.

COUNT III- FAILURE TO INTERVENE

Plaintiffs hereby incorporate, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

26. Defendants Paige Durham, Matt Blansett, Jody Lockhart, Jacob Kilgore, and Ronnie "Bo" Burnett failed to intervene when they could have done so.

27. Those actions and/or omissions were the direct and legal cause of the Plaintiff Willard King's actual physical and emotional injuries, and other damages and losses described herein entitling Plaintiff to compensatory and special damages.

COUNT VII-CONSTITUTIONAL VIOLATIONS BY DEFENDANTS

Plaintiff hereby incorporates, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

28. Defendants Brian Davis, Justin Graham, and Andrew Voss committed the above described actions and/or omissions under the color of law and by virtue of their authority as law enforcement officials of the Marion County Sheriff's Department, and the Hamilton County Sheriff's Department and substantially deprived the Plaintiff Willard King of the rights, privileges, and immunities guaranteed to him by the Fourth and Fourteenth Amendments of the United States Constitution, Article 1, Section 7 and 8 of the Constitution of the State of Tennessee in violation of 42 U.S.C. § 1983 and 1988 including, but not limited to the following:

- a. Freedom from unreasonable seizure of his person;

b. Freedom from the use of unreasonable, unjustified, and excessive force;

c. Freedom from deprivation of liberty without due process of law;

d. Freedom from arbitrary government actions which is so outrageous as to shock the conscience of a civilized society;

29. As a direct and proximate result of the Defendants Brian Davis, Justin Graham, and Andrew Voss' acts and omissions, the Plaintiff Willard King was severely injured, unlawfully detained against his will, and these acts and omissions on the part of the Defendants Brian Davis, Justin Graham, and Andrew Voss are the direct and legal cause of Plaintiff Willard King's actual physical and emotional injuries, and other damages and losses described herein entitling Plaintiff to compensatory and special damages.

COUNT VIII-CONSTITUTIONAL VIOLATIONS BY DEFENDANTS CITY AND COUNTIES

Plaintiff hereby incorporates, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

30. At all times material hereto, the Defendants mentioned in this Complaint as part of the Marion County SWAT Team, Jody Lockhart, Jacob Kilgore, and Andrew Voss were acting by virtue of the laws of the State of Tennessee and by virtue of their positions as law enforcement officers of the Sequatchie County Sheriff's Department, Marion County Sheriff's Department, and the Hamilton County Sheriff's Department.

31. Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government permitted, encouraged, and tolerated an official pattern, practice or custom of its police officers violating the constitutional rights of the Plaintiff.

32. The conduct of Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government was unjustified, unreasonable and grossly disproportionate to the actions of the Plaintiff Willard King, if any, and shocks the conscience of a civilized society and constitutes the use of excessive and unreasonable force in violation of the rights secured to the Plaintiff Willard King by the Fourth Amendment and Fourteenth Amendment of United States Constitution, Article 1, Section 7 and 8 of the Constitution of the State of Tennessee in violation of 42 U.S.C. § 1983 and 1988.

33. The conduct of Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government was unjustified, unreasonable and grossly disproportionate to the actions of the Plaintiff Willard King, if any, and was deliberately indifferent to the substantive due process liberty interests of the Plaintiff Willard King in violation of the rights secured to the Plaintiff Willard King by the Fourteenth Amendment of the United States Constitution, Article I, Section 8 of the Constitution of the State of Tennessee in violation of 42 U.S.C. § 1983 and 1988.

34. These Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government are liable for the

unconstitutional and unlawful any, prior acts of these officers involved in this lawsuit as well as the actions and/or omissions of the officers involved in this attack, which is subject to this complaint, due to the following rules, regulations, policies, practices and/or customs of the Police Departments which were in effect at the time of this attack as well as being in effect at the time of any prior acts and which were the underlying direct and proximate cause of the Plaintiff's injuries:

a. Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government failed to adequately train, implement policies and procedures, and educate its officers to prevent unreasonable and unlawful seizure and detainment of persons and use of excessive force creating an atmosphere where illegal and unconstitutional behavior with respect to unreasonable and unlawful seizure of persons against their will and use of excessive force are tolerated in deliberate indifference and reckless disregard to the welfare of the public, including the Plaintiff;

b. Defendants Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government repeatedly and knowingly failed to discipline its officers with respect to violations of the laws of the State of Tennessee, the Constitution of the United States, and its own policies regarding unreasonable and unlawful seizure and detainment of persons and use of excessive force creating a pattern, policy, practice, custom, or atmosphere where such illegal and unconstitutional behavior is tolerated, condoned, and accepted in deliberate indifference and reckless disregard to the public, including the Plaintiff.

35. The actions of Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government regarding prior attacks as well as this attack were in direct violation of the rules and regulations of the Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government, the statutes of the State of Tennessee and the United States Constitution regarding unlawful and unreasonable seizure and detainment of persons against their will and use of excessive force. Despite violating the rules and regulations of the Defendant Sequatchie County Government, Defendant Hamilton County Government, and Marion County Government, no officers were reprimanded, disciplined or terminated by the Police Departments, and accordingly, these Defendants ratified, condoned, acquiesced, and/or approved their conduct in this matter in all respects.

36. The aforementioned actions of the individual Defendants which were proximately caused by the policies, practices, and customs of these Defendants were the direct and legal cause of Plaintiff Willard King's actual physical and emotional injuries, and other damages and losses described herein entitling Plaintiffs to compensatory and special damages.

DAMAGES

Plaintiff hereby incorporate, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

37. As a direct and proximate result of the aforementioned actions and omissions of the Defendants, Plaintiff Willard King has suffered personal injuries and is entitled to damages as a result of the conduct of the Defendants including, but not limited to:

- (a) medical, hospital, and pharmaceutical expenses, current and future;
- (b) physical pain and suffering, current and future;
- (c) mental anguish, current and future;
- (d) diminution in the enjoyment of life, current and future;
- (e) diminution of loss of earnings and future earning capacity;
- (f) future permanent impairment and injury;
- (g) Attorney fees pursuant to 42 U.S.C. §1988;
- (h) Punitive damages against the applicable Defendants;
- (i) A declaratory judgment that the policies, practices or customs of the Sequatchie County Sheriff's Department, Marion County Sheriff's Department, and the Hamilton County Sheriff's Department complained of herein are illegal and unconstitutional;
- (j) All such further relief, both general and specific, to which he may be entitled under the premises.

PRAYERS FOR RELIEF

Plaintiff hereby incorporates, in its entirety, each and every paragraph contained in this Complaint and by reference make said Paragraphs a part hereof as if fully set forth herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays to the Court as follows:

- a. That this Complaint be received and filed, and that proper process issue and be served upon the Defendants, requiring them to answer in the time and manner prescribed by law;
- b. That Plaintiff Willard King sues for an amount in excess of \$3,000,000.00 for compensatory damages.
- c. The Plaintiff's damages sought include, reasonable attorney fees, declaratory relief stating and holding that the policies, practices, and customs of the Defendant Police Departments are unconstitutional.
- d. The Plaintiff sues for attorney fees pursuant to 42 U.S.C. §1988;
- e. That Plaintiff hereby demand a jury to try all issues and causes herein; and
- f. That Plaintiff have such other and further general relief as he may prove entitled.

Dated: 7/9/21

Respectfully submitted,

s/ Roger D. Layne
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